IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8775 OF 2003

Shri Rama Babu Sawant .. Petitioner.
Vs.
Smt.Gangubai D/o Bhima Shinde .. Respondent.

Mr.G.N.Salunke for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 12TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitioner.

2. By this writ petition, the petitioner has impugned the following order :

> "Granted.
> Read the say. Order of no W.S. set aside with cost of Rs.75/- by invoking the power u/s. 151 C.P.C."

3. The only submission advanced by the learned counsel for the petitioner is that no reasons whatsoever were recorded by the trial Court while allowing the application for setting aside the "No W.S." order. He further submitted that the application filed by the respondent-defendant also does not state any reason for delay in filing the written statement. Keeping that in view and considering a cryptic order passed by the trial Court Mr.Salunke, learned counsel for the petitioner has

agreed for the following order:

. The impugned order is quashed and set aside. The application Exhibit-25/D is restored to file. The respondent-defendant is allowed to file an additional affidavit in support of the application at Exhibit-25/D, making out a case for condonation of delay and for setting aside "No W.S." order within six weeks from the date of receipt of this order. The trial Court shall consider the application at Exhibit-25/D afresh within six weeks and pass appropriate orders thereon, in the light of the law laid down by this court in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Mh.L.J.419** which has been confirmed by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Others Vs. Shivaji Bhausaheb Gadhe and Others** case afresh within six weeks therefrom. It is needless to express that the trial Court shall pass the order on application at Exhibit-25/D after giving an opportunity of being heard to both the sides. The petitioner to produce copy of this order before the trial Court within two weeks from today.

. With these observations the writ petition is disposed of.

(D.B.Bhosale, J.)